THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11812 of 2007

06.7.2007

Between:
Yandru Ramachandra Rao, S/o.Buchi Raju

…Petitioner

And

The District Collector, East Godavari at Kakinada
And others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
WRIT PETITION No.11812 of 2007

ORDER:

Petitioner herein is owner of land admeasuring Acs.2.16 in survey Nos.30/4, 30/7, 30/8 and 30/9 of Gummileru village of Alamuru Mandal in East Godavari District. Fourth respondent owns land admeasuring Acs.2.26 in R.S.Nos.32/1 and 32/2 of Gummileru village. Alleging that he dug fish tanks in his land in contravention of law, petitioner filed W.P.No.12123 of 2006, seeking a direction to District Collector and Tahsildar to take action against fourth respondent. This Court dismissed the said writ petition on 26.6.2006 following the judgment of Division Bench of this Court in **Madireddy Padma Rambabu v District Forest Officer, Kakinada**[1] observing that as found by the Mandal surveyor, fourth respondent is only running a dairy with twenty Haryana buffalos and he dug small tank for the purpose of bathing the buffalos and therefore the writ petition is misconceived. Again the petitioner filed the instant writ petition alleging that the fourth respondent maintained *status quo* till harvesting of Rabbi crop and thereafter dried his small pond with a view to dig fish tanks. Petitioner then made representation to respondents 1 to 3 on 17.5.2007. As there was no response thereon, he filed the instant writ petition again seeking a writ of Mandamus declaring the action of the fourth respondent in digging fish tanks in agricultural tanks as illegal and arbitrary.

Heard the learned Counsel for the petitioner and learned Counsel for fourth respondent. Nowhere in the affidavit accompanying the writ petition, petitioner alleged that the fourth respondent already dug fish tanks. In paragraph-5 of the writ affidavit, he alleges that after harvesting Rabbi crop, fourth respondent dried existing pond with a view to dig fish tanks in the entire land. He then made a representation to the authorities on 17.5.2007, in vain. Therefore, this Court is not inclined to accept the writ petition at this stage. However the petitioner is given liberty to approach the third respondent, namely, Tahsildar, Alamuru, to conduct enquiry and take

necessary action against fourth respondent in accordance with the decision of this Court in **Madireddy Padma Rambabu** (supra).

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

July 06, 2007
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[1] 2002(1) ALD 728 (DB)